Of Counsel:
ALSTON HUNT FLOYD & ING
Attorneys At Law
A Law Corporation

LOUISE K. Y. ING 2394-0
GLENN T. MELCHINGER 7135-0
ROBERT J. MARTIN JR. 7981-0
1001 Bishop Street, Suite 1800
Honolulu, Hawai`i 96813
Telephone: (808) 524-1800
Facsimile: (808) 524-4591
E-mail: ling@ahfi.com
gtm@ahfi.com
rmartin@ahfi.com

Attorneys for Defendant
MARRIOTT INTERNATIONAL, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI`I

VINCENT KHOURY TYLOR and VINCENT SCOTT TYLOR, Plaintiffs, v. MARRIOTT INTERNATIONAL, INC., a Delaware Corporation, dba COURTYARD BY MARRIOTT WAIKIKI BEACH AND/OR COURTYARD WAIKIKI BEACH; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; AND DOES ASSOCIATIONS 1-10, Defendants.	Case No. CV 14-00069 JMS-RLP **DEFENDANT MARRIOTT INTERNATIONAL, INC.'S SEPARATE CONCISE STATEMENT OF FACTS IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT;** DECLARATION OF YONGSHENG WU; EXHIBITS "A" THROUGH "C"; DECLARATION OF GLENN T. MELCHINGER; EXHIBIT "1"; CERTIFICATE OF SERVICE **TRIAL DATE:** July 28, 2015 **JUDGE:** Hon. J. Michael Seabright

DEFENDANT MARRIOTT INTERNATIONAL, INC.'S SEPARATE CONCISE STATEMENT OF FACTS IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Rule LR56.1 of the Local Rules of Practice for the United States District Court for the District of Hawai`i, Defendant Marriott International, Inc. ("Marriott") hereby submits its separate concise statement of material facts in support of its Motion for Summary Judgment, which is being filed contemporaneously.

DEFENDANT'S STATEMENT OF FACTS

FACTS	EVIDENTIARY SUPPORT
1. Pinterest is an online platform that allows users to collect, share, and discover things they love. Pinterest users gather images and other content (each known as a "Pin") from their own collections or from across the Internet and organize them in themed collections called "boards."	Wu Decl. ¶ 3.
2. As users browse the Internet, including the millions of boards and more than 30 billion Pins available on Pinterest, they can add the content they find to their own boards, and they can follow the Pinterest users and boards they find most interesting, useful, or inspiring.	Wu Decl. ¶ 3.
3. Pinterest allows its users to add new images to their board by Pinning images from their collections or from the Internet.	Wu Decl. ¶ 3-4.
4. Pinterest allows a user to add images to the user's board by Re-Pinning images found on other user's boards.	Wu Decl. ¶ 6-7.

	FACTS	EVIDENTIARY SUPPORT
5.	Re-Pinning is simple: a user just needs to click a button on the page where the Pin is and select the boards on which the item should be included.	Wu Decl. ¶ 6.
6.	One Pin may appear in thousands of different boards belonging to different users relating to an array of different topics.	Wu Decl. ¶ 7.
7.	No new copies of the image are created when an image is Re-Pinned.	Wu Decl. ¶ 7-8.
8.	Re-Pinning an image on Pinterest does not modify the existing copy stored on Pinterest's system.	Wu Decl. ¶ 8.
9.	The process that Pinterest uses to allow images to be Re-Pinned is commonly referred to as "framing."	Wu Decl. ¶ 7-8.
10.	Copies of the images associated with a given board are not stored on or served from the webpage containing the board.	Wu Decl. ¶ 8.
11.	A board is comprised of text (which describes the board and its Pins) surrounding a series of image "frames." Those frames do not include the actual images. Instead, they contain instructions, known as "in-line links," written in the Hypertext Markup Language ("HTML"), that pull the image from the location where the image is stored elsewhere on Pinterest's system.	Wu Decl. ¶ 8.
12.	When a user Re-Pins an image, Pinterest adds a new frame to the board, which includes an in-line link to the actual copy of the image.	Wu Decl. ¶ 8.
13.	When a user Re-Pins an image to the user's board, Pinterest adds HTML code to the user's pinboard. This HTML code includes an in-line link to the URL associated with the image, which is stored elsewhere on Pinterest's system.	Wu Decl. ¶ 8.

	FACTS	EVIDENTIARY SUPPORT
14.	With respect to the allegedly infringed work, "K-42 Secret Beach," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.1;[1] Wu Decl. ¶ 9.
15.	With respect to the allegedly infringed work, "O-06 Hanauma Bay Wide," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.2; Wu Decl. ¶ 9.
16.	With respect to the allegedly infringed work, "M-18 Turquoise lagoon" the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.3; Wu Decl. ¶ 9.
17.	With respect to the allegedly infringed work, "S-02 Fire at Shipwrecks," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.4; Wu Decl. ¶ 9.
18.	With respect to the allegedly infringed work, "M-25 Kaanapali Beach," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.5; Wu Decl. ¶ 9.
19.	With respect to the allegedly infringed work, "O-01 Waikiki-Pink boat ORIGINAL VERSION," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.6; Wu Decl. ¶ 9.
20.	With respect to the allegedly infringed work, "O-15 Waikiki Skyview," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.7 Wu Decl. ¶ 9.
21.	With respect to the allegedly infringed work, "O-23 Waikiki Dusk," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.8; Wu Decl. ¶ 9.
22.	With respect to the allegedly infringed work, "A-20 Surfer at Twilight," the complained-of use was a Re-Pin.	Compl. ¶ 19 & Ex. C, p.9; Wu Decl. ¶ 9.

[1] The Complaint and Exhibits "C" and "D" to the Complaint are attached together as Exhibit "1" to the Declaration of Glenn. T. Melchinger. References to the Complaint ("Compl.") and Exs. "C" and "D" therefore refer to Exhibit "1" to the Motion.

FACTS		EVIDENTIARY SUPPORT
23.	With respect to the allegedly infringed work, "Hana Lagoons," the complained-of use was a Re-Pin.	Compl. ¶ 20 & Ex. D, p.2; Wu Decl. ¶ 9.
24.	The Pinterest screenshots contained in Exhibits C & D to the Complaint indicate that the images at issue were Re-Pinned.	Compl. ¶¶ 19, 20 & Exs. C, D; Wu Decl. ¶ 9.
25.	With respect to the allegedly infringed work, "K-42 Secret Beach," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.1; Wu Decl. ¶ 9.
26.	With respect to the allegedly infringed work, "O-06 Hanauma Bay Wide," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.2; Wu Decl. ¶ 9.
27.	With respect to the allegedly infringed work, "M-18 Turquoise lagoon" the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.3; Wu Decl. ¶ 9.
28.	With respect to the allegedly infringed work, "S-02 Fire at Shipwrecks," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.4; Wu Decl. ¶ 9.
29.	With respect to the allegedly infringed work, "M-25 Kaanapali Beach," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.5; Wu Decl. ¶ 9.
30.	With respect to the allegedly infringed work, "O-01 Waikiki-Pink boat ORIGINAL VERSION," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.6; Wu Decl. ¶ 9.
31.	With respect to the allegedly infringed work, "O-15 Waikiki Skyview," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.7 Wu Decl. ¶ 9.

FACTS		EVIDENTIARY SUPPORT
32.	With respect to the allegedly infringed work, "O-23 Waikiki Dusk," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.8; Wu Decl. ¶ 9.
33.	With respect to the allegedly infringed work, "A-20 Surfer at Twilight," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 19 & Ex. C, p.9; Wu Decl. ¶ 9.
34.	With respect to the allegedly infringed work, "Hana Lagoons," the image at issue was not uploaded to Pinterest by Courtyard by Marriott Waikiki Beach.	Compl. ¶ 20 & Ex. D, p.2; Wu Decl. ¶ 9.
35.	The Pinterest screenshots contained in Exhibits C & D to the Complaint indicate that the images at issue were originally Pinned by users other than Courtyard by Marriott Waikiki Beach.	Compl. ¶¶ 19, 20 & Exs. C, D; Wu Decl. ¶ 9.

Dated: Honolulu, Hawai`i, September 22, 2014.

/s/ Glenn T. Melchinger

LOUISE K. Y. ING
GLENN T. MELCHINGER
ROBERT J. MARTIN JR.

Attorneys for Defendant
MARRIOTT INTERNATIONAL, INC.